

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 1:12-CR-257

v.

HON. ROBERT HOLMES BELL

BRADLEY BERGQUIST,

Defendant.

/

MEMORANDUM OPINION AND ORDER

Defendant Bradley Bergquist has filed a motion for modification or reduction of sentence (ECF No. 700) pursuant to 18 U.S.C. §3582(c)(2) on the basis of Amendment 782 of the United States Sentencing Guidelines, made retroactive by the Sentencing Commission.

Section 3582(c)(2) permits a court to reduce the term of imprisonment of a defendant who has been sentenced based on a sentencing range that has subsequently been lowered by the Sentencing Commission. 18 U.S.C. § 3582(c)(2). Amendment 782 of the United States Sentencing Guidelines reduced by two levels the offense levels assigned to the quantities that trigger the statutory mandatory minimum penalties in U.S.S.G. §§ 2D1.1 and 2D1.11. These modifications were made retroactive effective November 1, 2014. U.S.S.G. § 1B1.10.

However, because the defendant was sentenced below the advisory guideline range in his original sentence, the probation office found defendant ineligible for a reduction in sentence under Guideline Amendment 782. Defense counsel has filed a response to the report of eligibility, ECF No. 787, and concurs that Mr. Bergquist is not eligible for a sentence reduction due to the minimum

of the applicable amended guideline range calculated under the Sentencing Guidelines is greater than the 18-month sentence imposed at sentencing. The government has also filed a response, ECF No. 794, and concurs with the probation office and defense counsel's assessment that the defendant is ineligible for a reduction of sentence pursuant to 18 U.S.C. § 3582 and USSG § 1B1.10.

Therefore, IT IS HEREBY ORDERED that Defendant's motion for modification of sentence (ECF No. 700) pursuant to 18 U.S.C. § 3582(c)(2) is DENIED.

Dated: June 9, 2015

/s/ Robert Holmes Bell

ROBERT HOLMES BELL

UNITED STATES DISTRICT JUDGE